



SCHOOL FOR JUSTICE- A RAY OF HOPE FOR CHILDREN TRAFFICKED FOR THE PURPOSES OF COMMERCIAL SEXUAL EXPLOITATION

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Abstract

Prostitution has been there in our society since time immemorial. However, the concept of children entering this flesh trade is relatively new and is becoming rampant. It refers to the sexual exploitation of a child for remuneration in cash or in kind, usually but not organised by an intermediary (parent, family members, procurer, etc.). Various reports show how India houses the highest number of children who are engaged in flesh trade. Child prostitution is one of the worst and the most unbearable abuses of human rights. The hardships involved in these cases is unimaginable. The Government of India has taken various steps to curb the problem of child prostitution. The Ministry of Women and Child Development (MWCD), Ministry of Home Affairs (MHA), Ministry of External Affairs (MEA) etc. have taken several initiatives through different programmes to deal with the problems of trafficking of children for the purposes of commercial sexual exploitation. There are several international as well as domestic legislations for the protection of child rights against trafficking for the purposes of commercial sexual exploitation. The Judiciary also has responded in multifarious ways to prostitution on children including defining the rights of victims and creating institutional mechanisms for their safeguards and enforcement. Despite various legislative, administrative and judicial measures being taken, the problem of trafficking of children for the purposes of commercial sexual exploitation is rising day by day. Day by day the number of children falling into this so called flesh trade is increasing. Time has come where the world needs to understand that there is no point in worrying about the concerned problem without really doing something about it and taking some action globally in order to prevent these innocent kids from falling into the trap of flesh trade. To curb the practice of child prostitution the need of the hour is awareness, sensitization and education on the issue of child prostitution.



A recent headline ‘School for Justice’¹ from one of the best web sources for legal news named ‘Bar & Bench’ drew my attention and tempted me to write something on this interesting issue. The news was all about an initiative taken by Free A Girl, one of the leading international organisations which fights against human trafficking, in collaboration with few Indian organisations, to empower the victims of human trafficking and sexual exploitation.

Prostitution has been there in our society since time immemorial. However, the concept of children entering this flesh trade is relatively new and is becoming rampant. Child prostitution is a practice where a child is used for the purposes of prostitution. In other words, when a child is used mostly for sexual activities in return for remuneration or any other form of consideration that practice is known as child prostitution. It refers to the sexual exploitation of a child for remuneration in cash or in kind, usually but not organised by an intermediary (parent, family members, procurer, etc.). Various reports show how India houses the highest number of children who are engaged in flesh trade. The number ranges to millions and millions children, majority of whom are girls, who are trapped in this flesh trade. A child in prostitution is one who is forced or compelled by a pimp or by the madam to get engaged in detrimental sexual activities. Usually the child is sold to a brothel by a pimp who acts as a middleman between the child and the brothel keeper. He supplies these innocent children for the purposes of making them enter into flesh trade and gets huge benefits out of the transaction.

Not much literature is available on the topic of child prostitution but as it is a species of human trafficking it is ideal to include the literature available on trafficking which comprises reports of various studies derived from conferences and workshops conducted both by the international and domestic non-governmental organisations (NGOs). Literature available through the State level studies are more when it is compared to national and regional level studies. Fortunately, the topic of trafficking has gained importance since the last few years when trafficking caught the attention on the international agenda. This is the reason for the rise in the number of ongoing research studies on trafficking in India.²

¹ <https://barandbench.com/school-justice-child-prostitution-legal-education/>: last visited on 10 August 2017

² <http://nhrc.nic.in/Documents/ReportonTrafficking.pdf>: last visited on 6 Dec 2015



Human trafficking is one of the major causes behind child prostitution. Being an offence against humanity human trafficking for the purposes of commercial sexual exploitation of children degrades the position of the children to a mere commodity and makes a mockery of their human rights. Trafficking has become one of the most lucrative opportunities for the perpetrators of this heinous crime against children. Almost every country in the world is under the tentacles of trafficking for sexual exploitation where women and children are commodified. Poverty and illiteracy also make the poor people sell their children to traffickers in order to pay off debts or gain income. In many cases they are deceived by the traffickers and they send their children concerning the prospects of a better life for them. Over the few years trafficking has spread its tentacles to cover the unlawful transport of human beings, especially women and children, for the purpose of selling them or exploiting their labour. During the Saundatti festival traffickers from various places come and buy the girls who become Devadasis.³

Since the last two decades there has been an enormous growth in the rate of children and women being trafficked. Human trafficking is a highly organised crime which has been defined by the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, as any activity leading to recruitment, transportation, harbouring or receipt of persons, by means of threat or use of force or a position of vulnerability. Organised trafficking involves a range of players and at times it is played alone by a single individual. When many people are involved players, traffickers and recruiters come into the picture. Traffickers operate as a part of the gang of organised crime groups or in gangs or at times alone. United Nations Convention on Organised Crime defines organised crime as a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention in order to obtain directly or indirectly a financial or other material benefit. Anyone can be recruited by the trafficker to achieve the target. Friends, relatives, relatives of friends, neighbours, persons who are already trafficked earlier, fathers, boyfriends, husbands etc. can be recruiters and work for the traffickers. The network of trafficking involves, at times, railway or bus

³ <http://www.iiijm.org/mastersproject2015/saundatti-plight-of-devadasis-in-saundatti-2015.html>: last visited on 19 January 2017



authorities, passport officials, taxi drivers, police, politicians etc. The trend of trafficking has grown with globalisation and modernisation where people migrate to various parts of the globe in search of a better life. As children belonging to indigenous community and ethnic minorities do not share a common language which is used by the majority of population and as they are backward having no proper educational access they lag behind in having good economic opportunities, they are the most vulnerable group when it comes to trafficking. They lack the economic strength and proper knowledge about the world. They are also not aware of their rights which could help protect them from the traffickers and pimps. Taking the advantage of this situation traffickers often deceive the poor and innocent children by giving them false promises of a job or marriage and finally sell them off in brothels or to persons who act as middlemen. The socio economic constraints make the children and women more vulnerable where they fall into the trap of flesh trade. Children are smuggled across borders and are treated as commodities as human trafficking has become one of the largest sources of making huge amount of profit in one night. There are two types of traffickers who operate in the market. Those who operate openly in the market are primary traffickers. For instance, pimps are primary traffickers. Those who operate behind the scenes are secondary traffickers. They are the people who have high level connections in the government circle which protects them from trafficking trade. The secondary traffickers never come to the limelight and it has been almost impossible till date to find out the real face behind this crime.

According to the information provided by the National Crime Records Bureau (NCRB), in the year 2014 the no. of children rescued from human trafficking for the purposes of sexual exploitation was 4743 and in the year 2015 it was 9483.⁴

According to a leading NGO, Bachpan Bachao Andolan, 24744 children were reported to be missing from the metropolitan cities, Delhi ranking first. Around 6785 children disappear from Delhi every year out of which 850 children remain untraced. Within a span of two years 117480 children were reported to be missing when data was derived from 392 districts of India. In the year 2005 the number of untraced missing children was 11000 as per

⁴ <http://www.livelaw.in/14226-victims-rescued-trafficking-sexual-exploitation-prostitution-last-2-years/>: last visited on 26 February 2017



study conducted by NHRC's Action Research on trafficking which showed a significant rise to 20,773 in the year 2008-09.⁵

Though there is a contradiction in the figures cited by the NGOs and government agencies with regard to the number of children trafficked but it is seen that both agreed to the fact that in our country every eight minutes a child goes missing. According to one estimate it has been found out that half of the children trafficked within India range between 11 and 14 years of age. As per a report prepared by ECPAT International it is seen that around 32.3 percent of girls who are trafficked suffer from deadly diseases like HIV/AIDS or sexually transmitted infections (STIs) and other gynaecological problems.⁶ Taking into consideration the current rate of growth, it is estimated that by the year 2025 one out of every five Indian girl will be a child prostitute.⁷

Surprisingly, it is seen that our country most probably has more modern slaves in comparison to other countries in the world. Millions of women and girls are trapped in caged brothels who are often held captive during the initial years till they surrender to their fate. The brothels in India are unimaginably violent where pimps and madams torture the girls with ferocious beatings and are subjected to various other forms of torture. Girls who do not cooperate are sometimes killed also.⁸

According to one source for commercial sexual exploitation and trafficking India has been a constant source and destination country. It is seen that trafficking is done within the country as well as a considerable number of children are trafficked from countries like Bangladesh and Nepal. For the sport like camel racing and some other sports many children are trafficked to the Middle Eastern countries also. As this organised crime is committed in the most clandestine manner it is impossible to get the correct data. But it is believed that there has been a strong demand for young boys and girls in the industry. It is estimated by some NGOs that for the sex trade around twelve thousand to fifteen thousand children and women are being trafficked from the neighboring countries like Nepal and Bangladesh to India annually. It is estimated that around 2 lakhs Nepalese girls engaged in

⁵ Missing Children of India – Bachpan Bachao Andolan (2012) www.bba.org

⁶ <http://www.ipsnews.net/2014/09/child-trafficking-rampant-in-underdeveloped-indian-villages/>: last visited on 23 August 2016.

⁷ <http://www.manupatrafast.com/articles/PopOpenArticle.aspx?ID=724a3993-625e-4aa7-9c56-3b2554410642&txtsearch=Subject:%20Women%20And%20Child%20Rights>: last visited on 4 February 2015

⁸ http://www.nytimes.com/2011/05/26/opinion/26kristof.html?_r=0 : last visited on 5 February 2015



prostitution are under 16 years of age. Every year during the Haj period thousands of children are trafficked to countries like Saudi Arabia for the purposes of begging and prostitution. Goa and Delhi are the major states receiving these trafficked women and children for the purposes of prostitution. The largest number of people trafficked are from West Bengal, Andhra Pradesh, Karnataka and Tamil Nadu. In states like Bihar, Assam, Maharashtra, Meghalaya, Uttar Pradesh, Rajasthan, Andhra Pradesh, Tamil Nadu and Karnataka inter-state and intra-district trafficking is more in number. Trafficking from north eastern states is high but often over looked. 529 girls were trafficked in the year 2008 from Assam alone.⁹

Ministry of Women and Child Development (MWCD) had sponsored some studies and surveys which estimate that in our country there are about three million prostitutes and forty percent of them are kids and the customers prefer to have sex with young girls.¹⁰

According to the National Crime Records Bureau (NCRB) 11 cases of 'buying of minor for prostitution'¹¹ and 111 cases of 'selling of minors for prostitution'¹² were registered in the country during the year 2015 against 14 and 122 such cases registered in the year 2014 respectively. As per the report states like Maharashtra, Haryana, Telangana and Uttar Pradesh have only reported cases of 'buying of minors for prostitution' whereas states like Chhattisgarh, Haryana, Madhya Pradesh, Maharashtra, Uttar Pradesh and West Bengal registered cases of 'selling of minors for prostitution' during 2015.¹³

According to the Human Rights Watch, there are more than 20 million prostitutes in India and around 35 per cent of them enter the flesh trade when they were 18 yrs of age.¹⁴

One of the sources states that India's population is about 1.27 billion, out of which there are 900000 sex workers. 30 percent among them are children and shockingly reports said it is estimated that the said number is increasing by 8% to 10% per annum. In Mumbai, one study showed that out of 456 sex workers who had been rescued by the police one-fifth of them were under 18 years of age and two-third of them were less than 20 years. A madam running a brothel mentioned that there is a

⁹ Supra note 9

¹⁰ <http://www.unodc.org/pdf/india/publications/India%20Country%20Report.pdf>: last visited on 25 July 2016

¹¹ Under Section 373 of the Indian Penal Code

¹² Under Section 372 of the Indian Penal Code

¹³ <http://ncrb.nic.in/StatPublications/CII/CII2015/Compendium-CII-2015.pdf>: last visited on 26 February 2017

¹⁴ Supra note 7



decrease in the age of girls in the last two years and the average age of girls who are supplied to the has gone down from 14 and 16 years to 10 and 14 years. Girls between 10 and 12 years are in more demand and they fetch the highest price. The reality of the child prostitution or child sex rackets in India can be analysed through this.¹⁵ Every day on an average 200 girls and women in India enter the flesh trade and 80% of them become prostitutes against their will. At the current rate of growth, it can be said by the end of the year 2025 one out of every five Indian girl children will be a child prostitute. Every hour, four women and girls in India enter prostitution, three of them against their will.¹⁶

Around 10 million girls get married every year around the world who are below 18yrs of age out of which 40 per cent of those weddings take place in India. There are various reasons why girls get married at an early age out of which poverty is one of the major reasons. For instance, Hyderabad has been the hunting ground for the rich men who target the poor Muslim families and through middlemen they marry girls hailing from very poor families just to have sex with them. They pay the parents of these girls a hefty amount and marry them for the sole reason of having sex with a young virgin girl. Most of these men are above 40yrs of age. Muslims around the old city of Hyderabad are very poor. Taking advantage of this situation, rich men come from Kuwait, Oman, UAE, Saudi Arabia etc. and contact a matchmaker who, finds a poor needy young virgin girl for them so that they can have sex in lieu of payment to be made to the poor parents. Unfortunately, the girls are often sold to these people by their parents for whom the financial proposition becomes irresistible and they don't hesitate in getting their girls sold off to these rich people. Unfortunately, after using these girls for satisfying their sexual needs, these men leave them and go back to their respective countries. In some other cases, which is very rare, the men take these girls with them to their home countries as their second, third or fourth wives. Islam prohibits prostitution. This is the reason why these men marry and subsequently divorce these girls. The divorce papers are often dated for a week or two after the marriage. In this situation the girls are not allowed in their parents' place as they are considered to be impure. Ultimately, finding no other way they land up in brothels to earn their livelihood as prostitutes.¹⁷

¹⁵ <http://www.legalservicesindia.com/article/article/the-veracity-of-child-prostitution-in-india-1727-1.html>: last visited on 22 July 2016

¹⁶ <http://cabt.empowerpeople.org.in/2010/11/child-prostitution-in-india.html>: last visited on 22 July 2016

¹⁷ https://www.thestar.com/news/world/2014/10/13/indias_prostitute_brides_girls_raped_as_temporary_wives.html: last visited on 23 July 2016



Between the year 2013 and 2014, around 45 percent of 67000 missing children in India were minors who were engaged in prostitution. According to the UNICEF State of the World's Children Report India, apart from Thailand and Brazil, is one of the few countries which has been identified as one of the leading hotspots with regard to child trafficking in the world. Around one lakh minors are forced to enter this flesh trade every year. According to an official with the Anti Human Trafficking Unit in Delhi, the number of missing children which has been registered is very less compared to the actual number of trafficking cases happening in reality. Every year around one lakh minor girls are trafficked but only a thousand cases are registered. The reason is in most of the cases parents sell parents sell their girl child for money, at times as little as Rs 250 also. Cases like this have been found in places like West Bengal, Jharkhand and Bihar. A girl in India is abducted or kidnapped every eight minutes in our country as per the National Crime Records Bureau (NCRB). India, thus is ranked one of the world's major hubs for commercial sexual exploitation of children.¹⁸

The country's federal police had stated in the year 2009 that around 1.2 million children were involved in prostitution.¹⁹

According to one source, in Delhi many children are brought and supplied to hotels in Mahipalpur where they are compelled to satisfy seven men a day. When the city sleeps these young children stay awake and are engaged in flesh trade. One of the girls who had been rescued had stated that the hotel managements are fully aware of the people running this organised racket and cooperate them fully by helping the girls hide when they see a police van or jeep. The CWC reports say that the police have not acted despite being informed time and again about the child sex racket flourishing in these areas. It also says that the police reaction in all these cases was quite casual.²⁰

India has been witnessing the problem of human trafficking since the last decade and today it has reached to such an extent that it has become one of the most lucrative business. This problem has become a matter of serious concern in both national and international forums. Women and children are especially more vulnerable to this problem and in our country the volume of human trafficking is increasing day by day. Next to arms and drug smuggling, trafficking has become a multimillion

¹⁸ <http://scroll.in/article/677280/half-of-indias-missing-children-last-year-were-sold-into-prostitution>: last visited on 15 July 2016

¹⁹ <http://edition.cnn.com/2009/WORLD/asiapcf/05/11/india.prostitution.children/index.html>: last visited on 23 July 2016

²⁰ <http://www.dailymail.co.uk/indiahome/indianews/article-2119845/Child-sex-capital-Teenager-exposes-horrific-child-prostitution-racket-flourishing-Delhis-hotels.html>: last visited on 23 July 2016



dollar business. Women and children are kidnapped and sold and are exposed to a range of dangers out of which child prostitution is one. The data with regard to trafficking is almost impossible to get as it is undertaken by very well trained and highly organised criminals. As per NCRB 2005 reports, in India trafficking in children is increasing and around 60% of the victims of trafficking are children below 18 years of age. An NGO known as End children's prostitution in Asian Tourism has roughly estimated that in India there are around 2 million prostitutes and 20% among them are minors.²¹

Kamathipura in Mumbai, GB Road in Delhi, Budhwar Peth in Pune, Sonagachi in Kolkata Reshmapura in Gwalior have been made famous as red light areas in India. As per sources it is believed that around 2.8 million women and girls are engaged in this flesh trade and their number is rising. Every hour, four women and girls in India enter prostitution, three of them against their will. At an average age of twelve girls are trafficked and are sent to the brothels in Mumbai and Kolkata. Most of the girls are trafficked from Nepal. Renuka Chowdhury, Minister for Women and Child Development once quoted a study on the number of women and girls engaged in prostitution in our country and said that the 35.47 percent of women entered into this flesh trade and became sex workers before they attained the age of 18 yrs.²²

According to another source in Bombay, 15% of the prostitutes are devadasis; in Delhi, Nagpur and Hyderabad, 10%; in Pune, 50% and in southern parts of India, 70 to 80%.²³

According to another source it has been found out that around 15% of the prostitutes are children who are working in various cities like Delhi, Mumbai, Kolkata, Bangalore and Hyderabad as prostitutes. Estimates show that 30% of the prostitutes working in these six cities are under 20 years of age. Half of them were minors when they entered into this flesh trade. As far as trafficking is concerned, according to one source every year around 70000 sex workers are trafficked from Nepal to India. The annual income of 66 percent of these girls who are trafficked is about Rs 5000 and these girls are mostly sold by their parents or they are deceived often with promises of a good job or marriage and ultimately sold in the brothels. 40 - 50% of them are believed to be less than 18 yrs of age, the age of consent in India, and some are as young as 9 or 10 years old.²⁴

²¹<https://brownschool.wustl.edu/sites/DevPractice/Labor%20Rights%20Reports/Child%20Trafficking%20in%20India.pdf> : last visited 23 July 2016

²² Supra note 2

²³ <http://www.wri-irg.org/node/12031>: last visited on 22 July 2016

²⁴ <http://tclucknow.org/Child%20Prostitution%20in%20India.htm>: last visited on 22 July 2016

The below mentioned table throws light on the number of cases registered under the IPC and ITPA with regard to the trafficking of minor girls in India between the year 2001 to 2012 which clearly shows the magnitude of the problem of trafficking of minor girls for the purposes of commercial sexual exploitation.²⁵

Crime heads under trafficking related laws	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
ITPA 1956	8,796	6598	5510	5748	5908	4541	3568	2659	2474	2499	2435	2563
Buying of minor girls for prostitution (IPC Sec. 373)	6	9	24	21	28	35	40	30	32	78	27	15
Selling of minor girls for prostitution (IPC Sec. 372)	8	5	36	19	50	123	69	49	57	130	113	108
Procuration of minor girls (IPC Sec. 366-A)	138	124	171	205	145	231	253	224	237	679	862	809
Importation of girls from foreign countries (IPC Sec. 366-B)	114	76	46	89	149	67	61	67	48	36	80	59

Hardships Involved

Child prostitution is one of the worst and the most unbearable abuses of human rights. The hardships involved in these cases is unimaginable. These children face such traumatic experiences at an early stage in their lives which leaves them with deep emotional scars. They are deprived of their basic human rights. There are numerous dangers connected to the life of a child in prostitution. Day in day out they are physically and sexually assaulted by the pimps and the customers which leaves them physically very weak and prone to various sexually transmitted diseases. Most of them are forced to do some pornography also. They are made pregnant at a very early age. In some cases, children at the age of 12 are seen to be carrying a child in their arms and at times due to rigorous sexual assaults most of them die.

²⁵ https://www.popcouncil.org/uploads/pdfs/2014PGY_TraffickingIndia.pdf; last visited on 2 June 2017



Physically, the damage to children includes tearing of vagina, physical after-effects of torture, sexually transmitted diseases, urinary tract infection, or unwanted pregnancy. On a psychological level, the damage is more and the child shows many symptoms, such as acute depression, aggressiveness, low confidence, personality or sexual orientation confusion, insomnia, mistrust or deep hatred towards adults.²⁶

As the child prostitutes are in great demand, they are always kept under strict vigilance. They are threatened and physically and mentally tortured by the pimps and madams. They stay in a really unhygienic condition with very little food. They are made to stay in a 10 x 10 room and often in tunnels shaped rooms. They do not get any medical checkups as the brothel owners fear of getting caught. These children are forced to work around the clock. They are excused only when they are physically very weak. Whatever money the child earns is shared by the brothel keeper, pimp and police. Reports state where the police is believed to be receiving bribes from the brothel keepers. Instead of protecting these children the police harass the girls, snatch their money, and often demand free sexual services.²⁷ It is almost impossible to find these children during police raids in brothels because the pimps and owners receive the news in advance from the police about impending raids.

For a child who is engaged in prostitution it is psychologically and morally unimaginably disastrous and dangerous. The extreme trauma which the child experiences is very hard to imagine. A child is denied of his childhood when he/she is sexually exploited. He is treated as a mere commodity to fulfill the sexual desire of the clients. The very basis of the child sex industry engaging a child in this trade and treating him as a commodity for sale and purchase demeans and dehumanizes a child. The human rights of a children get directly violated when they are compelled to enter the flesh trade and made to lose their innocence forever. They also lose the will power and confidence to discover their own identity and ultimately it leaves them feeling worthless. This leaves the child completely traumatized where he experiences low self-esteem and starts treating himself or herself as a taboo for the society whom nobody would accept. By this the child gets mentally tortured which hampers his or her overall personality.

²⁶ <http://www.humanium.org/en/child-prostitution/?gclid=CI-vxOi03M0CFcwWaAodH-4C4A>: last visited on 5 July 2016

²⁷ Robert I. Friedmann, *India's Shame: Sexual Slavery and Political Corruption are leading to an AIDS Catastrophe*, The Nation, 8 April 1996



The personal interviews with the children engaged in prostitution show that the girls belong to very poor families whose parents are unable to feed their children properly. They often are based in rural remote areas where the parents are also illiterates. 16yrs is usually the average age in which a girl enters into prostitution. Most of the girls come from dysfunctional families where the mother or sister is a prostitute or father is having no steady employment. Most of their fathers are either dead or alcoholic or are unfit for any kind of employment. The girls lead a horrible life where they are supposed to serve almost seven clients per night. Most of them are already carrying STDs and some of them have HIV infection also. Some of the older prostitutes from Nepal say that once a young Nepali girl is affected by AIDS she is deported to Nepal. The girls have usually landed up in brothels after being deceived about a job or false marriage. Unlike the popular belief the girls do not have direct access to their earnings and it is all taken by the pimps and madams. the conditions in which these girls stay in the brothels is unimaginable as it is highly crowded and unhygienic. There is a huge shortage of water with insufficient number of toilets. Many of the minor girls already have children. Some of them have aborted their pregnancies as well. Most of them also show the desire to have a baby.²⁸

The police help in this movement for which the girls have no faith in police or politicians as they demand bribes or sexual favours from these girls.²⁹

The Government of India has taken various steps to curb the problem of child prostitution. The Ministry of Women and Child Development (MWCD), Ministry of Home Affairs (MHA), Ministry of External Affairs (MEA) etc. have taken several initiatives through different programmes to deal with the problems of trafficking of children for the purposes of commercial sexual exploitation.

There are several international as well as domestic legislations for the protection of child rights against trafficking for the purposes of commercial sexual exploitation like Convention on the Rights of Child (CRC), Convention on Elimination of Discrimination Against Women (CEDAW), Universal Declaration of Human Rights (UDHR), Constitution of India, Indian Penal Code (IPC), Immoral Traffic Prevention Act (ITPA), Juvenile Justice Act (JJ Act), Protection of Children from Sexual Offences Act (POCSO) etc.

²⁸ RK Tandon and KN Sudarshan, *Child Prostitution*, 1997, SB Nangia, APH Publishing Corporation, p. 185

²⁹ <http://www.manushi.in/docs/246-police-act-as-pimps.pdf>; last visited on 23 February 2017



The Judiciary also has responded in multifarious ways to prostitution on children including defining the rights of victims and creating institutional mechanisms for their safeguards and enforcement. Several of these responses can be seen in the landmark judgements in various areas to ensure action on the commercial sexual exploitation, trafficking and abuse of children as also in the court directions to monitor the implementation of laws and enforcement of provisions for the child victims through various panels and committees.³⁰ The courts have issued detailed guidelines of the procedures to be followed in the rescue and rehabilitation of children who have been the victims of trafficking victims. Acting against the social menace the Indian judiciary has played an important role in combatting human trafficking and its various species.

Despite various legislative, administrative and judicial measures being taken, the problem of trafficking of children for the purposes of commercial sexual exploitation is rising day by day.

Day by day the number of children falling into this so called flesh trade is increasing. Provisions given in the legislations dealing with this problem are inadequate in dealing with various issues pertaining to child prostitution. For instance, there has been no provision to punish the client, who, should have been ideally punished as he abets this crime to be committed against these innocent victims. Furthermore, it has been seen that rehabilitation of the women and children, who are rescued from the flesh trade, is not done in the real sense. Though all offences are cognizable it doesn't result in convictions. The definition needs correction because it is vague and it doesn't cover various other aspects and strangely the victims are punished rather than the perpetrators of this crime. Generally, the minor girls are detained and questioned and taken into police custody during raids while the pimps, kotha malkeens (women who own brothels) and clients escape easily by managing to secure bail. Thereafter they continue to run their usual business of commercial sexual exploitation of minor girls. Lacunae also lies with the administrative measures decided to be taken or implemented with regard to the prevention of Human Trafficking for the purposes of Commercial Sexual Exploitation and for the rescue, rehabilitation and protection of the victims. For instance, it has been found out that the various advisories and SOPs which had been formed under the Ministry of Home Affairs have not

³⁰ Vishal Jeet Vs. Union of India and Ors 1990 AIR 1412, 1990 SCR (2) 861, Gaurav Jain Vs Union of India and Ors (1997)8 SCC, Bachpan Bachao Andolan v. Union of India, (2010) 12 SCC 180, Sampurna Behura v. Union of India, (2011) 9 SCC 801, Budhadev Karmaskar (3) v. State of W.B., (2011) 10 SCC 277, Prajwala v Union of India and Others WRIT PETITION(C) NO.56 OF 2004



been very effective in dealing with the problems related to trafficking of children for the purposes of commercial sexual exploitation thereby combatting the said crime. This is happening for various reasons stated below:

- There is a lack of dedicated manpower
- Financial resources are absent
- Roles have not been properly defined
- Absence of accountability
- Lack of effective coordination between different government departments
- Working of various stakeholders in silos
- Absence of adequate knowledge with regard to the SoPs and Advisories
- Absence of knowledge of latest laws and decisions of the Supreme Court and High Courts
- Lack of sensitivity and having a callous and prejudiced attitude of the concerned officials towards the victims
- Lack of skill in understanding the magnitude of an event such as a missing child or elopement or movement of people from conditions of distress and want

As far as the court proceedings are concerned it is always seen that the victims are put to embarrassment by the defence lawyer. The perpetrators of this crime generally walk around freely. Due to the clandestine nature of this problem cases of child prostitution still remain under the carpet and very few cases come into the limelight. Despite the extent of the problem it is seen that on an average less than 50 cases of child prostitution lead to conviction.³¹ It is seen in most of the cases that there is a delay in trial due to the non-appearance of the witnesses.

The reason child prostitution is still continuing is not in the absence of legal provisions in this regard but the lack of information and the lack of awareness in this field which makes this issue more challenging. The literate mass may be aware of this problem but it is the illiterate people who suffer because poverty has been the most important reason behind trafficking of women and children. So, the people must be made aware of the various tricks followed by the traffickers in different kind of situations.

³¹ <https://www.adforum.com/creative-work/ad/player/34543337/school-for-justice/free-a-girl-movement-india>: last visited on 26 August 2017



Conclusion

To curb the practice of child prostitution the need of the hour is awareness, sensitization and education on the issue of child prostitution. Time has come where the world needs to understand that there is no point in worrying about the concerned problem without really doing something about it and taking some action globally in order to prevent these innocent kids from falling into the trap of flesh trade. Various NGOs are working with dedication in the rescue and rehabilitation of the victims of trafficking for the purposes of commercial sexual exploitation. Taking into consideration the difficulties in eradicating this organised crime, steps are being taken to create awareness about the problem of trafficking of children for the purposes of commercial sexual exploitation. Steps are also being taken to rehabilitate the rescued children in the real sense of the term by empowering them with education. These are the two most important factors which needs to be taken care in order to bring a sustainable change. The School for Justice programme by Free A Girl India, in collaboration with other NGOs, seems to be a ray of hope in curbing the menace of trafficking of children for the purposes of commercial sexual exploitation.